

# **EXHIBIT 50**

**DECLARATION OF ROBERT J. VALLI, JR. IN SUPPORT  
OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, ROBERT J. VALLI, JR., do hereby declare and affirm as follows:

1. I am an attorney at law, admitted to the bar of the State of New York and duly licensed to practice before the United States District Court for the Southern District of New York.

2. I am a founding partner at my firm, Valli Kane & Vagnini LLP ("VKV"), and along with other members of my firm, am co-counsel for the Plaintiffs in this action.

3. I am fully familiar with the facts and circumstances set forth herein and I make this Declaration in support of Plaintiffs' Motion for Class Certification (the "Motion").

4. Because the Declaration of Michael Lieder, filed herewith, addresses the main issues raised in the Motion, this declaration is for the limited purpose of demonstrating the adequacy of VKV to serve as co-class counsel.

5. FIRM BACKGROUND

6. VKV has over seventy (70) collective years of civil rights and wage and hour litigation experience amongst its partners.

7. VKV has a robust class action practice that ranges from wage and hour collective and class actions, class and mass discrimination actions, and confidential alternative dispute resolutions of class/mass actions. Further, the firm also engages in individual litigation as well as the filing of charges with the Equal Employment Opportunity Commission ("EEOC") and various equivalent state agencies.

8. The Firm was honored in 2014 with the Texas Lawyer's award for the highest verdict in Employment Discrimination and in 2017 with the NAACP Legacy Award.

9. Members of VKV, including myself, have been appointed lead or co-lead counsel and/or worked as counsel in the following cases:

- (a) Ahmed v. TJ Maxx, 10-CV-3609 (E.D.N.Y.) – FLSA and NYLL Assistant Store Manager Misclassification Case litigated for years and ultimately settled for the individual opt-ins after conditional certification was granted and then denied.

- (b) *Beaty et. al. v. Hillshire Brands et. al-* 2:14-cv-58 (E.D.T.X. – Marshall Division).

This was a race discrimination action wherein Class Counsel represented many individuals against one defendant. The EEOC issued a finding of class-wide discrimination against Sara Lee and joined our previously filed lawsuit. The case was settled for \$4 million.

- (c) *Brown et.al. v. Medicis* – 1:13-cv-01345 (D.O.C.) (Title VII gender discrimination case, Judge Richard J. Leon appointed Sara Wyn Kane as Lead Class Counsel along with Cyrus Mehri of Mehri & Skalet, PLLC and the two firms as Class Counsel; \$7,150,000.00 settlement for a class of 225 women). Judge Leon’s order states that the class representatives have “hired counsel experienced in litigating employment discrimination class actions.” The Order approves an attorney fee award in the amount of 35%, plus reimbursement of all reasonable costs, plus expenses and a \$150,000 payment for fees on the one-year anniversary of the order for work associated with implementing the settlement agreement);

- (d) *Indergit v. Rite Aid*, 1:08-cv-09361, Dkt. 239 at 40 (S.D.N.Y. Sept. 26, 2013) (FLSA and NYLL misclassification case with thousands of opt-ins and class members). The Court, in granting certification and denying decertification stated, “[i]t is clear that counsel is qualified and able to conduct the litigation.” (Dkt No. 239 at 40).

- (e) *Kudo v. Panda Express* 7:09-cv-00712 (S.D.N.Y.) – (FLSA misclassification class of 155 opt-ins, settled for \$2,975,000. Judge Cathy Seibel in awarding 33 1/3% in fees to class counsel (VKV Co-lead Counsel), stated, “...Plaintiffs’ counsel have experience in this type of case, and have succeeded in negotiating an award that has real value for the class members....” (Dkt No. 308 at 5-6) and “Class Counsel have extensive knowledge in litigating wage and hour collective and class actions such as this, are familiar with the complex factual and legal questions at issue in this Litigation, and have and will continue to adequately represent the Plaintiffs and

members of the Settlement Class in a comprehensive and vigorous manner.” (Dkt No. 309 at 3);

- (f) “*PPA Cases*<sup>1</sup>” – Representation of Parking Production Assistants (“PPAs”) who worked on a variety of film and television productions for most major studios in the New York area. Filed twelve class actions between 2015 – 2017 alleging violations of the FLSA and NYLL. Collective settlements of approximately \$30,000,000 recovered on behalf of hundreds of workers. Judge Francis in approving four of the settlements, stated “And I will say that as with the prior settlements, these strike me as quite fair and reasonable....And I commend you all on your hard work on these.”
- (g) *Roberts et. al. v. TJX – 1:13-cv-13142* (D.Mass) (Nationwide (ex. CA) FLSA misclassification case). Judge Burroughs approved \$4,750,000 settlement for the training claims of 4,018 combined class members; Conditional Certification granted on remainder of the case. VKV along with co-counsel were appointed class counsel for the settlement classes and awarded thirty-three and one-third percent (33 1/3%) of the common fund in fees, costs and expenses. In the preliminary approval order the Judge stated that, “the Court is satisfied that the terms and conditions set forth in the Settlement Agreement are the result of good faith, arm’s length settlement negotiations between competent and experienced counsel...” and in the final order that, “Plaintiffs have been represented by highly competent attorneys with substantial experience litigating wage and hour claims, and pursuing such claims in class and collective actions.”

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<sup>1</sup> The actions with some or all defendants having reached settlements include: *Leach et al. v. NBCUniversal et al.* 15-cv-7206; *Leach et al. v. Warner Bros. et al.* 15-cv-7208; *Hines et al. v. CBS et al.* 15-cv-7882; *Fermin et al. v. Broken Records LLC* 15-cv-7941; *Pellot et al. v. Paramount et al.* 16-cv-0463; *Morgan et al. v. Columbia et al.* 16-cv-1402; *Morel et al. v. Lions Gate et al.* 16-cv-1407; *Headlam et al. v. 20<sup>th</sup> Century Fox et al.* 16-cv-1408; *June et al. v. NBCUniversal et al.* 16-cv-1409; *Morgan et al. v. Warner Bros. Pictures et al.* 16-cv-1411; *Muhammed et al. v. ABC et al.* 16-cv-4133.; *Solano-Rodriguez et al. v. Amazon Studios, Inc. et al.* 17-cv-1587.

- (h) *Romero v. Allstate Insurance* - 2:01cv-03047 (E.D.PA) Representation of over 40 individuals with ERISA and ADEA claims in a mass action which at one point included approximately 500 plaintiffs represented by various counsel. All of those VKV represented settled their cases.
- (i) *Taylor v. Turner Industries Group, LLC* - 2:11-CV-0057 (E.D.T.X. – Marshall) Along with co-counsel, Class Counsel obtained a jury verdict of over \$4 million in a mass racial harassment and discrimination case; VKV and co-counsel received the Texas Lawyer publication's employment "Verdicts Hall of Fame" award for 2014.
- (j) *Taylor v. Turner Industries Group, LLC* – 3:11-CV-00471 (M.D.La.) Represented over two hundred (200) individuals with racial harassment and discrimination claims. The case was resolved.

#### **INDIVIDUAL ATTORNEY INFORMATION**

##### **Robert J. Valli, Jr.**

10. Mr. Valli is a founding partner at the Firm with over twenty-seven (27) years of litigation experience. He graduated from St. John's University in 1987 and St. John's University School of Law in 1990. Following his graduation from law school in 1990, he served as an Assistant District Attorney ("ADA") with the Office of the Queens County District Attorney. During his tenure as an ADA, he served in the Intake Bureau, Criminal Court Bureau, Appeals Bureau, Homicide Investigations Bureau and the Supreme Court Trial Bureau. In the approximately seven (7) years working as an ADA, he conducted hundreds of evidentiary hearings, investigated numerous homicides, tried numerous misdemeanor cases, prosecuted hundreds of felonies and tried more than twenty (20) felony cases to verdict. He represented the Office of the District Attorney on more than twenty (20) appeals at the Appellate Division, Second Department, and was co-lead counsel representing the Queens District Attorney's Office in the investigation, prosecution and eventual homicide conviction of an FBI profiled sexually sadistic serial killer.

11. In 1997, he joined Leeds & Morelli, Esqs., the predecessor firm to Leeds Brown P.C. and began practicing in the field of civil rights/employment discrimination law. With that firm, he was responsible for a large portion of the litigation and successfully tried various civil rights cases in both Federal and State Court.

12. Presently, he is involved in the majority of the litigation at VKV. Below are examples of cases where Mr. Valli represented the prevailing party in litigations in which he served as lead or co-lead trial counsel.

- A. *Collins v. Suffolk County Police Department*, et al., 01-CV-4194 (ADS)(E.D.N.Y.).
- B. *D'Annunzio v. Ayhan, et al.* 11-cv-3303 (WFK)(E.D.N.Y.)
- C. *Gunning v. Village of East Rockaway, et al.*, 96-CV-2076 (ADS)(E.D.N.Y.)
- D. *Jattan v. Queens College*, (12367/95) (Queens Supreme Court)
- E. *Raghavendra v. The Robert Plan Corporation, et al.*, 96 CV 667 (VPP)(E.D.N.Y.)
- F. *Sommer, et al. v. Aronow, et al.*, 95-CV-9230 (BSJ)(S.D.N.Y.)<sup>2</sup>
- G. *Weeks v. Suffolk County Police Department, et al.*, 03-CV-4294 (LDW)(E.D.N.Y.)

13. In addition to the above, he has been lead counsel on many other civil trials that did not proceed to verdict.

14. Mr. Valli has appeared as a guest speaker on News Channel 12 and as a legal commentator on Court TV and has lectured on criminal, civil rights and discrimination laws for a variety of organizations, including the Federal Bar Association. He was named a 2019 Super Lawyer and received the 2017 Long Island Business New Leadership Award for Employment Attorneys.

#### **Sara Wyn Kane**

15. Ms. Kane is a founding partner at VKV with over twenty (20) years of litigation experience. Ms. Kane graduated *cum laude* from Boston University and *with distinction* from Hofstra Law School (top 8%). While attending law school she was the Managing Editor of Articles

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<sup>2</sup> This trial involved contract claims and therefore there was no “prevailing party” as that term is used in the context of an FLSA/NYLL action.

for the Hofstra Labor & Employment Law Journal, (1997 – 1998). Ms. Kane honed her litigation skills while working as an Assistant Corporation Counsel in the Manhattan Trial Unit for the City of New York. While defending the City’s employees and the City itself she conducted and defended hundreds of depositions/hearings, and participated in extensive discovery, motion practice, pre-trial and trial work.

16. Following her tenure with Corporation Counsel, Ms. Kane was an associate at Leeds Morelli & Brown, P.C. (now Leeds Brown, P.C.). While at the Leeds firm she handled and supervised a caseload which consisted primarily of mass action civil rights discrimination cases as well as individual employment related cases. She has personally handled hundreds of hearings and mediations on behalf of aggrieved employees regarding claims of discrimination.

17. In 2005, Ms. Kane co-founded VKV and while she has been and remains involved in all aspects of managing the firm, she is primarily responsible for overseeing the firm’s participation in Wage and Hour Collective and Class Actions, False Claims Act cases, Class and Mass Discrimination actions and the confidential Alternative Dispute Resolution of Class/Mass and Individual actions, as well as working with the Equal Employment Opportunity Commission (EEOC) and various equivalent State Agencies.

18. Examples of cases in which Ms. Kane was counsel, lead or co-lead counsel include:

- *Brown et. al. v. Medicis* – 1:13cv-01345 (D.O.C.) (Judge Richard J. Leon appointed Ms. Kane as Lead Class Counsel along with Cyrus Mehri of Mehri & Skalet, PLLC and the two firms as Class Counsel, stating Plaintiffs “hired counsel experienced in litigating employment discrimination class actions.”). Ms. Kane is particularly proud of the recovery obtained in this case, especially in light of the climate surrounding hostile work environment and gender discrimination Class Actions.
- *Kudo v. Panda Express* – 7:09-cv-00712 (S.D.N.Y.) (Court recognizing that “Class Counsel...have and will continue to adequately represent the Plaintiffs and members of the Settlement Class in a comprehensive and vigorous manner.”) (Dkt.

309: 3). The per person recovery in this matter is one Ms. Kane, her partners and co-counsel fought to achieve on behalf of the managers in this FLSA action.

- *Leach et al. v. NBC et al.* – 1:15-cv-7206 (S.D.N.Y.) – One of the twelve actions known as “PPA Actions” filed on behalf of PPAs against many major film and television companies for alleged FLSA and NYLL violations. Judge Francis in approving four of the settlements, stated “And I will say that as with the prior settlements, these strike me as quite fair and reasonable....And I commend you all on your hard work on these.”
- *Roberts et. al. v. TJX* – 1:13-cv-13142 (D. Mass) (Nationwide (ex. CA) FLSA misclassification case settled training claims for \$4,750,000; Conditional Certification granted on remainder of case, litigation ongoing. In referring to VKV and co-counsel, the Judge stated that “Plaintiffs have been represented by highly competent attorneys with substantial experience litigating wage and hour claims, and pursuing such claims in class and collective actions.”
- *United States ex rel. Gallian v. DaVita Rx, LLC, No. 3:16-cv-0943-B (N.D. Tex.)*. This is a *Qui Tam* lawsuit filed under the False Claims Act, wherein VKV represented two Relators and worked with the Government to obtain a \$63.7 million settlement, some of which was attributed to the efforts of the Relators for which the Relators received over two million dollars.
- *United States of America, ex rel, Hinestroza et.al. v. Ralex Services, et al.* – 10-cv-0822 (E.D.N.Y.) This is a *Qui Tam* case wherein VKV represented the Relator and worked with the Government to secure a \$2,200,000 settlement.

19. Further, much of Ms. Kane’s work is in the firm’s ADR practice which involves confidentiality and therefore cannot be cited to. However, some examples include:

- a. Representing hundreds of employees against a large financial institution to resolve a variety of discrimination claims through an ADR process;



- b. Representing hundreds of individuals against a large insurance company to resolve various claims of discrimination through a negotiation process;
- c. Engaging in a multiple day mediation process to resolve the race discrimination claims of over a dozen employees against an international corporation, which included a multi-million dollar resolution and a *cy pres* component with continual monitoring on an ongoing basis;

**Publications:**

- *Proposal for a Model Employee Benefit Program*, Benefits Quarterly, Vol. 14, No. 2, 1998
- *Have You Hit The Glass Ceiling?* Long Island Woman Magazine, Vo. 5, No. 2, 2005

20. Throughout her career Ms. Kane has appeared on television to discuss employment discrimination claims generally and specifically regarding cases filed and litigated by the firm. She has lectured on issues relating to employment, wages and Civil Rights at various bar associations and events, has been named a Super Lawyer in both 2019 & 2018, is a Member of The National Trial Lawyers Top 100 Trial Lawyers; received the Hofstra Law's Center for Children, Families and the Law's Outstanding Women in Law Award (2016), and the Long Island Business News Leadership in the Law Award (2016); Member of the National Association of Professional Women, Nassau County & American Bar Associations, National Employment Lawyers Association and other professional organizations.

**Matthew L. Berman**

21. Mr. Berman was made a Partner of the firm after holding the position of senior associate since joining the firm in the fall of 2015. Mr. Berman graduated with a B.A. degree from Bucknell University in 1994 and with a Juris Doctor degree from Fordham University School of Law ("Fordham") in 1999. During his tenure at Fordham, Mr. Berman was a Notes & Articles Editor of the *Fordham University Environmental Law Journal*. He served as a judicial intern to the Honorable Denny Chin (former United States District Judge for the Southern District of New York, and currently a Judge of the United States Court of Appeals for the Second Circuit), as an

intern to the Nassau County District Attorney's Enterprise Crime Bureau, and as a member of the Unemployment Action Center clinic at Fordham.

22. Mr. Berman has been practicing employment and commercial litigation for twenty (20) years. During that time, he has represented individual plaintiffs and class members throughout the United States. Prior to joining VKV, Mr. Berman worked at Bernstein Litowitz Berger & Grossmann LLP, a securities litigation boutique that is considered one of the nation's preeminent plaintiff's class action firms, and he helped clients achieve recoveries worth hundreds of millions of dollars. Some examples include:

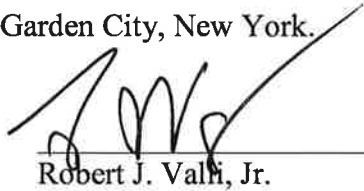
- In a series of lawsuits brought pursuant to the Equal Credit Opportunity Act, including *Casson v. Nissan Motor Acceptance Corp.*, *Jones v. Ford Motor Credit Company*, *Baltimor v. Toyota Motor Credit Corp.*, *Coleman v. General Motors Acceptance Corp.*, Mr. Berman represented consumers asserting that automobile lenders implemented a racially discriminatory lending program. These cases resulted in settlements valued at over \$100 million dollars and transformed automobile financing practices across the industry.
- In *In re Merck Vioxx Securities Litigation*, Mr. Berman represented investors in a suit alleging that Merck failed to disclose adverse facts regarding Vioxx's cardiovascular risks. On January 30, 2013, after appeals all the way up to the United States Supreme Court, and certification as a class action, the case settled for an amount in excess of \$830 million.
- In *Dorce v. City of New York*, 19-cv-02216 (S.D.N.Y 2019), Mr. Berman represents the former owners of real property which was seized by the City of New York (the "City"). Pursuant to the City's Third Party Transfer Program ("Program"), the City seizes real properties in satisfaction of unpaid liens for water and sewer charges, and transfers the properties to third party real estate developers in the name of

“Affordable Housing.” As part of the Program, the City seizes all of the value of the properties without returning the “surplus equity” (the amount in excess of the unpaid liens) to the former owners. The plaintiffs challenge the Program as an unconstitutional “taking” without “just compensation.” The Program, as well as the Second Circuit’s decision overturning dismissal of the action by the District Court, has been the subject of national reporting, including in NBC News and *Black Enterprise* magazine.

23. Mr. Berman’s practice concentrates on representing plaintiffs in employment law and wage/hour litigation, and representing homeowners and tenants of rent stabilized buildings in connection with securing their property and tenancy rights.

24. I declare under penalty of perjury under the laws of the United States that the foregoing is to the best of my knowledge true and correct.

Executed on this the 25<sup>th</sup> day of August, 2021, in Garden City, New York.



Robert J. Vali, Jr.